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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,851	11/07/2001	Philip J. Rayner	4393-113 US	8963

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MATHEWS, COLLINS, SHEPHERD & MCKAY, P.A.  
100 THANET CIRCLE, SUITE 306  
PRINCETON, NJ 08540-3674

EXAMINER

BUDD, MARK OSBORNE

ART UNIT PAPER NUMBER

2834

DATE MAILED: 11/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

006 851

Applicant(s)

Rayner et al

Examiner

M. Budd

Group Art Unit

2834

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-28 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-28 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 7(7-16-02)
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 2834

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are vague and indefinite in that it is unclear what actual structure is being defined by the claim language. There are no actual structural elements with cooperating relationships. For example, claim 1 does not clearly state a disc of electro active material, a diaphragm mounted on the disc and a rotor coupled to the diaphragm. The claim merely narrates a list of desired functions and parts. Claim 16 contradicts itself by stating a 'stator' is a 'rotor'. Thus, due to the indefiniteness of the claims one cannot determine the meters and bounds of these claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 5, 9, 11, 17 and 23-28 are rejected under 35 U.S.C. 102(a) as being anticipated by Uchino.

Note piezo disc #18, with diaphragms on each surface e.g. #38 driving a rotor.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6-8, 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchino.

Uchino teaches the ultrasonic motor using a piezoelectric material. However, it has long been held that a selection from among known suitable materials is within the skill expected of the routineer. Since piezoelectric and magnetostrictive materials (official notice taken). Use of a magnetostrictive material in Uchino would have been obvious to one of ordinary skill in the art. The same is true of using specific adhesives e.g. solder and epoxy to connect the diaphragms to the piezo element. Regarding claims 15, 16 and 18, use of a bias spring to press the rotor and stator together, provision of a traction and/or wear coating on the contact surface and providing an inside/out motor (e.g. reversal of "rotor" and "stator" are all widely used in the piezoelectric motor art (official notice taken) and their use in Uchino for these known attributes would have been obvious to one of ordinary skill in the art.

Further cited of interest art Gschwind, Vishneusky, Yamakawa, Ciaeyssen and Jaenker.

Claims 10, 12-14 d 19-22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

  
MARK O. BUDD  
PRIMARY EXAMINER  
ART UNIT 212